



May 2, 2001

Mr. Raymond L. Telles
Assistant City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR2001-1792

Dear Mr. Telles:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 148465.

The El Paso Police Department (the "department") received a request for information pertaining to case no. 99-328211. You claim that the requested information is excepted under section 552.101 in conjunction with section 261.201 of the Family Code. We have considered the exception you claim.

You state that this is the second request you have received for this information. In Open Records Letter No. 2000-3281 (2000), this office determined that the requested information was excepted under section 552.101 in conjunction with section 261.201 of the Family Code. You state that the department has no regulations that allow for the release of reports involving allegations of child abuse. Because the requested information is precisely the same information and the requested information is still confidential under section 261.201, Open Records Letter No. 2000-3281 (2000) serves as a previous determination regarding the requested information. See Open Records Decision No. 673 (2001) (previous determination exists where requested information is precisely same information addressed in prior attorney general ruling, ruling is addressed to same governmental body, ruling concludes that information is or is not excepted from disclosure, and law, facts, and circumstances on which ruling was based have not changed). Therefore, you must withhold the requested information in accordance with Open Records Letter No. 2000-3281 (2000).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).


If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer Bialek".

Jennifer Bialek
Assistant Attorney General
Open Records Division

JHB/seg

Ref: ID# 148465

cc: Mr. Bruce Harrison
Chief Investigator
Abraham, Watkins, Nichols, Sorrels, Matthews & Friend
800 Commerce Street
Houston, Texas 77002-1776